

## Message Text

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ACTION L-03

INFO OCT-01 ARA-06 ISO-00 DHA-02 SCS-03 NSC-05 SS-15  
H-01 SCA-01 PRS-01 SSO-00 NSCE-00 SP-02 A-01  
OPR-02 /043 W  
-----311723Z 007770 /50

O R 311625Z MAY 77  
FM AMEMBASSY BRASILIA  
TO SECSTATE WASHDC IMMEDIATE 1920  
INFO AMCONSUL RECIFE  
AMCONSUL RIO DE JANEIRO  
AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 4378

E.O. 11652: GDS  
TAGS: CASC, PFOR, BR  
SUBJ: PROPOSED NOTE OF DETENTION ON DETENTION OF US CITIZENS

REFS: (A) STATE 124566 (B) BRASILIA 4235

1. THE FOLLOWING, FOR THE DEPARTMENT'S APPROVAL, IS THE PROPOSED TEXT OF A NOTE VERBALE REGARDING THE MISTREATMENT OF ROSEBAUGH AND CAPUANO. WE RECOMMEND THAT THE NOTE BE SUBMITTED PROMPTLY, IF POSSIBLE NO LATER THAN WEDNESDAY, JUNE 1. PROMPT SUBMISSION WOULD GIVE THE BRAZILIAN GOVERNMENT TIME TO CONSIDER ITS CONTENTS AND TO TAKE ANY FOLLOW-UP ACTION IN ADVANCE OF MRS. CARTER'S ARRIVAL JUNE 6, TO BE PREPARED IN CASE THE MATTER BECOMES A SUBJECT OF DISCUSSION DURING HER VISIT. PROMPT SUBMISSION WOULD ALSO ALLOW MORE TIME FOR ANY ADVERSE REACTION IN BRAZILIAN GOVERNMENT CIRCLES OR IN THE MEDIA (SEE BELOW) TO ATTENUATE BEFORE MRS. CARTER'S ARRIVAL.

2. WE CONSIDER THE CHANCES FIFTY-FIFTY THAT THERE WILL BE AN ADVERSE REACTION IN THE BRAZILIAN GOVERNMENT TO THE NOTE, WHICH MAY TRIGGER GOB  
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SENSITIVITIES ABOUT INTERNATIONAL CRITICISM, OR WHICH THEY MAY SEE AS A US STEP TO RAISE TO THE POLITICAL LEVEL AN INCIDENT THAT THE GOB SEES AS BEING DEALT WITH SATISFACTORILY AND IN GOOD FAITH AT THE CONSULAR LEVEL. THE LIKELIHOOD OF AN ADVERSE OFFICIAL REACTION AND ITS INTENSITY WOULD BE DETERMINED IN LARGE PART BY WHETHER THE TEXT OF THE NOTE OR EVEN ITS ESSENCE

BECOMES PUBLIC AND WHETHER IT IS REPRESENTED AS A "NOTE OF PROTEST." WE RECOMMEND THAT, STRICTLY IF ASKED, EITHER IN WASHINGTON OR BRASILIA, ONLY THE FACT OF THE NOTE'S SUBMISSION BE MENTIONED AND THAT, IN RESPONSE TO ANY FURTHER PRESS QUESTIONS, IT BE DEFINED AS "AN EXPRESSION OF US INTEREST IN THE CASE AND HOPE THAT INVESTIGATIONS ALREADY UNDERWAY WILL LEAD TO A SATISFACTORY CONCLUSION."

3. BEGIN TEXT OF PROPOSED NOTE VERBALE:

A. THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF EXTERNAL RELATIONS OF THE FEDERATIVE REPUBLIC OF BRAZIL AND HAS THE HONOR TO REFER TO THE ARREST ON MAY 15 IN RECIFE BY LOCAL POLICE OFFICERS OF THOMAS MICHAEL CAPUANO AND LAWRENCE EDWARD ROSEBAUGH, BOTH CITIZENS OF THE UNITED STATES. MESSRS. ROSEBAUGH AND CAPUANO, WHO RESIDE AND WORK IN BRAZIL AS MISSIONARIES OF THE CATHOLIC AND MENNONITE CHURCHES RESPECTIVELY, WERE DETAINED INCOMMUNICADO IN THE DELEGACIA FOR THEFTS AND ROBBERIES OF RECIFE FOR THREE DAYS AND THEN RELEASED WITHOUT BEING CHARGED OF ANY CRIME.

B. THE DISAPPEARANCE OF THE TWO MISSIONARIES ON OR ABOUT MAY 15 CAUSED CONSIDERABLE APPREHENSION TO THEIR FRIENDS, FAMILIES, CO-WORKERS AND TO AUTHORITIES OF THE UNITED STATES GOVERNMENT. DURING MOST OF THE PERIOD OF THEIR DETENTION, THE EFFORTS OF THE UNITED STATES CONSULAR OFFICIALS IN RECIFE, WORKING THROUGH STATE AND LOCAL AUTHORITIES, TO DISCOVER THEIR WHERE-CONFIDENTIAL

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ABOUTS WAS UNAVAILING. THE EMBASSY OF THE UNITED STATES NOTES WITH APPRECIATION THE ASSISTANCE GIVEN BY THE FOURTH ARMY IN RECIFE TO CONSULAR OFFICIALS IN FINDING THE TWO DETAINED AMERICANS. THE EMBASSY ALSO NOTES WITH SATISFACTION THE PROMPT ACTION OF FEDERAL AND PERNAMBUCO STATE AUTHORITIES IN INITIATING AN INVESTIGATION OF THE ARRESTS, UNDERTAKING DISCIPLINARY PROCEEDINGS AGAINST THOSE BELIEVED TO BE RESPONSIBLE, AND ESTABLISHING AN IMPROVED SYSTEM FOR NOTIFYING THE CONSULATE PROMPTLY HEREAFTER OF THE ARRESTS OF AMERICAN CITIZENS AS REQUIRED BY INTERNATIONAL AGREEMENT.

C. THE EMBASSY OF THE UNITED STATES, HOWEVER, CAN ONLY NOTE WITH CONCERN THE POOR TREATMENT ACCORDED TO MESSRS. ROSEBAUGH AND CAPUANO BY LOCAL AUTHORITIES AT THE TIME OF THEIR ARREST AND DURING THEIR SUBSEQUENT DETENTION. SUCH TREATMENT WAS CONTRARY TO LAW IN SEVERAL RESPECTS. THE DETENTION OF THE TWO

MEN, AS CONDUCTED BY LOCAL POLICE AUTHORITIES, WAS ARBITRARY IN THAT NO CHARGES WERE PLACED AGAINST THEM AND THEY HAD NO OPPORTUNITY TO SECURE CONSULAR, LEGAL OR OTHER ADVICE OR ASSISTANCE, OR TO BRING THE MATTER OF THEIR DETENTION BEFORE THE JUDICIARY. MOREOVER, STATE AUTHORITIES FAILED TO GIVE NOTICE WITHOUT DELAY TO THE DETAINEES OF THEIR RIGHTS UNDER ARTICLE 36(1) (B) OF THE VIENNA CONSULAR CONVENTION OF 1963. THERE WAS ALSO FAILURE TO GRANT WITHOUT DELAY THE REPEATED REQUESTS OF THE AMERICAN PRISONERS THAT THE AMERICAN CONSULATE BE NOTIFIED, AS PROVIDED IN ARTICLE 36(B) OF THE VIENNA CONVENTION.

D. THESE ACTIONS, WHICH FRUSTRATED THE RIGHTS OF ACCESS OF THE CONSULATE AND OF THE AMERICAN NATIONALS UNDER ARTICLE 36(A), CONSTITUTE A CLEAR VIOLATION OF THE FUNDAMENTAL RIGHTS OF THE UNITED STATES AND ITS NATIONALS

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UNDER THE VIENNA CONVENTION. THE GOVERNMENT OF THE UNITED STATES NOTES WITH EQUAL CONCERN THE VIOLATION

OF THE HUMAN RIGHTS OF THE AMERICAN DETAINEES THROUGH THE DEGRADING TREATMENT THEY SUFFERED WHILE IN THE HANDS OF THE LOCAL AUTHORITIES.

E. THE EMBASSY OF THE UNITED STATES OF AMERICA EXPRESSES ITS CONFIDENCE THAT THE APPROPRIATE BRAZILIAN GOVERNMENT AUTHORITIES WILL CARRY ON TO A SATISFACTORY CONCLUSION THEIR CURRENT INVESTIGATION OF THIS INCIDENT SO THAT NECESSARY ACTION CAN BE TAKEN AGAINST ALL THOSE INVOLVED IN THE ABUSE OF THE RIGHTS OF THESE AMERICAN CITIZENS.

F. THE EMBASSY OF THE UNITED STATES OF AMERICA AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE MINISTRY OF EXTERNAL RELATIONS THE ASSURANCES OF ITS HIGHEST CONSIDERATIONS. END TEXT OF PROPOSED NOTE VERBALE.

4. REQUEST APPROVAL AND/OR REVISIONS BY NIACT IMMEDIATE. CRIMMINS

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## Message Attributes

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